

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 11/20/2023

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	
-against-	:	18-CR-526 (VEC)
	:	
	:	<u>ORDER</u>
TOMAS COLON,	:	
	:	
Defendant.	:	
	:	
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VALERIE CAPRONI, United States District Judge:

WHEREAS on November 14, 2023, Mr. Colon sought leave to file his sentencing submission under seal because the Defendant had agreed to be debriefed by the Government, Dkt. 407;

WHEREAS on November 14, 2023, the Court granted the request, Dkt. 408;

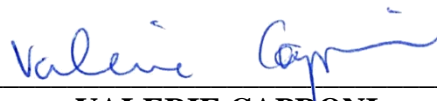
WHEREAS on November 16, 2023, Mr. Colon filed his sentencing submission under seal, Dkt. 410; and

WHEREAS the Court received the attached communication from Matthew Lee of Inner City Press seeking to unseal Mr. Colon's sentencing submission in this case; and

IT IS HEREBY ORDERED that no later **Tuesday, November 28, 2023**, Mr. Colon must show cause why he should not be required to file a public version of his sentencing submission redacted only to protect sensitive information that is not already public.

SO ORDERED.

Date: November 20, 2023
New York, NY



VALERIE CAPRONI
United States District Judge

Inner City Press

November 16, 2023

By E-mail to Chambers

Hon. Valerie E. Caproni, United States District Judge
Southern District of New York, 40 Foley Square, New York, NY 10007

Re: Press application to be heard / to unseal sentencing memo in US v. Colon, 18-cr-526-7 (VEC)

Dear Judge Caproni:

Inner City Press has been covering the above captioned criminal case and in trying to access defendant Tomas Colon's November 16, 2023 sentencing memo Dkt 410 on PACER found "This document is not available."

Looking back, Colon's counsel filed a one-sentence letter on November 14 seeking permission to file Mr. Colon's sentencing memo under seal. "AUSA Hobson does not take a position in this request. The need to file this under seal is due to defendant's agreement to be debriefed by the government."

First, this would not justify sealing the entire memo. Second, the government's sentencing memo is not sealed, or even redacted.

Inner City Press hereby opposes the sealing in full and asks that they be reversed, and/or that it have an opportunity to be heard on the scope of secrecy.

"Representatives of the press must be given an opportunity to be heard on the question of their exclusion from a court proceeding, and we have recognized a similar right of news media to intervene in this Court to seek unsealing of documents filed in a court proceeding." *Trump v. Deutsche Bank AG*, 940 F.2d 146, 150 (2d Cir. 2019). SDNY Judge Rakoff has previously granted an e-mailed Inner City Press request to unseal, in *US v. Weigand*, 20-cr-188 (JSR), see Dkt. No. 250.

"The common law right of public access to judicial documents is firmly rooted in our nation's history." *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006).

Please docket this challenge to the over-redaction of this sentencing memorandum, as SDNY Judges Stein, Hellerstein, Castel, Furman, Kaplan and

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others have done. See, e.g.,

<https://storage.courtlistener.com/recap/gov.uscourts.nysd.516151/gov.uscourts.nysd.516151.85.0.pdf>, Judge Stein's on the record decision to grant Inner City Press' motion to unredact from the sentencing submission in US v. Jen Shah, and Judge Kaplan's Jan 30, 2023 decision to unseal the bond co-signers of Sam Bankman-Fried, which Inner City Press moved for in January 2023.

If appropriate, PLEASE TAKE NOTICE that Inner City Press and its undersigned reporter, in personal capacity, will move this Court before Honorable Valerie E. Caproni, U.S. District Judge for the Southern District of New York, at a date and time directed by the Court, for entry of an order granting permission to be heard on sealing or unsealing of the sentencing submission in US v. Colon, 18-cr-526-7 (VEC).

Please act on, and docket, this request, as soon as possible before the sentencing.

Thank you.

Respectfully submitted,

/s/

Matthew Russell Lee, Inner City Press

cc: vik@pawarlaw.com, Adam.Hobson@usdoj.gov